

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD G. WOOD

Appeal No. 96-3830
Application 08/173,065¹

ON BRIEF

Before COHEN, MEISTER and PATE, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims
2 through 5 and 7 through 10. Claims 11 and 12, the only
other claims remaining in the application, stand allowed.

Appellant's invention on appeal pertains to a repair patch
for worn or damaged garment pockets. A basic understanding of

¹ Application for patent filed December 27, 1993.

Appeal No. 96-3830
Application 08/173,065

the invention can be derived from a reading of exemplary claim 2,
a copy of which follows.

2. A repair patch for worn or damaged garment pockets, comprising a pocket-like member to be installed in a pocket having an exterior, an interior, and a lowermost portion, said patch having exterior surfaces and corresponding substantially in size and configuration to the lowermost portion of the pocket to be repaired, heat sensitive glue applied to the exterior surfaces of said patch, such glue being adapted to engage the fabric of the interior of the pocket to which said patch is applied, such glue serving when activated, to retain said patch in a selected position within the lowermost portion of the pocket, said repair patch having at least one interiorly-turned seam, which seam is reinforced by the glue that had been applied to the exterior surfaces of the patch.

As evidence of obviousness, the examiner has relied upon
the references listed below:

Potter	2,295,425	Sep. 8, 1942
Buck	2,436,879	Mar. 2, 1948
Henry	2,685,086	Aug. 3, 1954
Benstock et al. (Benstock)	5,003,902	Apr. 2, 1991
Isoe et al. (Isoe)	5,156,891	Oct. 20, 1992
Hutchinson (published PCT application)	WO 93/00023	Jan. 7, 1993

The following rejections are before us for review.

Claims 2 through 4 stand rejected under 35 U.S.C. § 103
as being unpatentable over Buck in view of Potter, Benstock, and

Isoe².

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, and Isoe, as applied to claim 3 above, further in view of Hutchinson.

Claims 7 through 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, and Isoe, further in view of Henry.

Claim 10 stands rejected under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, Isoe, and Henry, further in view of Hutchinson.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 13), while the complete statement of appellant's argument can be found on pages 9 through 20 of the brief (Paper No. 12).

OPINION

In reaching our conclusion on the obviousness issues raised in this appeal, this panel of the board has carefully considered

² In the final rejection (page 2), the present rejection, in obvious error, specified, claims 1-4, when claim 1 had previously been cancelled. In the answer (page 4), the present rejection, also in obvious error, specifies claims 2 through 5 (claim 5 being the subject of a later separate rejection) and omits the Benstock reference in the statement of the rejection. Correct claims 2 through 4 are set forth above, and the Benstock reference is included.

Appeal No. 96-3830
Application 08/173,065

appellant's specification and claims, the applied references³, and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determination which follows.

We do not sustain the respective rejections of appellant's claims under 35 U.S.C. § 103.

This panel of the board fully comprehends the examiner's assessment and application of the applied prior art. However, for the reasons articulated below, we have concluded that the evidence of obviousness would not have been suggestive of the claimed repair patch.

Independent claims 2 and 7 are drawn to a repair patch for worn or damaged garment pockets. The repair patch comprises, inter alia, a pocket-like member, heat sensitive glue applied to the exterior surfaces of the patch (claim 2) and "substantially

³ In our evaluation of the applied references, we have considered all of the disclosure of each reference for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings of each reference, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

the entire outer surfaces of said repair patch containing a heat sensitive glue" (claim 7), and at least one interiorly-turned seam, which seam is reinforced by the glue that had been applied to the exterior or outer surfaces of the patch⁴.

In rejecting claim 2, the examiner has relied upon the basic combination of the Buck, Potter, Benstock, and Isoe references.

The patent to Buck (Figures 2 and 4) teaches a repair patch for garment pockets. The patch is sewed along adjacent edges 7 and includes a strip of adhesive 6 along an upper portion of an outer surface thereof. The adhesive can be normally non-stick and non-tacky but is rendered sticky and tacky by the application of heat (column 3, lines 33 through 51). As pointed out by the patentee, a hot pressing iron applied to the outer surface of a pocket 9 makes the adhesive 6 sticky and tacky to securely retain the repair patch in the desired position within the lowermost portion of the pocket (column 4, lines 10 through 16). The Potter patent (Figures 1 and 3) addresses a pocket which includes a rubber coating applied to the inner surfaces of folded sides

⁴ In light of appellant's disclosure, we understand the claimed terms "pocket-like" member and an interiorly-inturned "seam" that is reinforced, as follows. A "pocket-like" member denotes a member sized and configured like a pocket (specification, page 2). A "seam" denotes a stitched entity which, as disclosed, is glue-reinforced (specification, page 9).

along a seam. The rubber coating affords sufficient additional resistance to abrasion or cutting to multiply the life of the pocket many times (page 1, lines 28 through 37). The Benstock document (Figures 1A and 2) relates to a liquid proof seam that includes a melt adhesive polymer film 16. The invention is particularly addressed to fabric seams for raincoats, jackets, and similar outerwear, tents, outdoor equipment, and tarpaulins (column 1, lines 16 through 19). The Isoe patent (Figures 3 and 4) teaches a pocket with a resin-coated bottom 23 to provide enhanced abrasion resistance and reduce seam slippage along the stitching 31 on the pocket's bottom.

When we collectively consider the above teachings, setting aside what appellant has informed us of in the present application, it is apparent that the reference teachings themselves would not have been suggestive of the now claimed repair patch. From our perspective, the teachings of Potter and Isoe would have been suggestive of a rubber or resin coating for the bottom of the repair patch of Buck to obtain the benefits thereof set forth in the former patents. However, the resulting modified patch would not address the claimed repair patch which requires at least one interiorly-turned seam reinforced by heat sensitive glue. In our opinion, only impermissible hindsight and reliance

Appeal No. 96-3830
Application 08/173,065

upon appellant's own teaching would have allowed one of ordinary skill to further modify the pocket repair patch of Buck to

include a heat sensitive glue, based upon the teaching of the liquid proof seam in the Benstock patent. As a concluding point, we simply note that the underarm antiseptic deodorant pad of Henry and the waterproof pocket of Hutchinson do not overcome the deficiencies of the other applied art.

In summary, this panel of the board has:

reversed the rejection of claims 2 through 4 under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, and Isoe;

reversed the rejection of claim 5 under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, Isoe, and Hutchinson;

reversed the rejection of claims 7 through 9 under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, and Isoe, and Henry, and

reversed the rejection of claim 10 under 35 U.S.C. § 103 as being unpatentable over Buck in view of Potter, Benstock, Isoe, Henry, and Hutchinson.

Appeal No. 96-3830
Application 08/173,065

The decision of the examiner is reversed.

REVERSED

Irwin Charles Cohen)	
Administrative Patent Judge)	
)	
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)	
James M. Meister)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
William F. Pate, III)	
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Appeal No. 96-3830
Application 08/173,065

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Appeal No. 96-3830
Application 08/173,065

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